

AMENDED IN SENATE SEPTEMBER 1, 1999

AMENDED IN SENATE AUGUST 24, 1999

AMENDED IN ASSEMBLY APRIL 29, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 391**

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**Introduced by Assembly Member Jackson**

February 11, 1999

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An act to amend Sections 4320 and 4330 of the Family Code, relating to marriage.

### LEGISLATIVE COUNSEL'S DIGEST

AB 391, as amended, Jackson. Spousal support.

Existing law directs a court to consider specified circumstances concerning the parties in ordering spousal support in a judgment of dissolution of marriage or legal separation of the parties, including the goal that the supported party shall be self-supporting within a reasonable period of time. For purposes of this provision, a reasonable period of time is generally defined to be one-half the length of the marriage. Existing law also requires the court to give a specified admonition to the parties when making that order.

Existing law provides that a marriage of 10 years or more is presumed to be a marriage of long duration, as specified.

This bill would provide an exception for a marriage of long duration from the definition of a reasonable period of time for purposes of this provision. The bill would require the court, when ordering spousal support for a greater or lesser length

of time than one-half the duration of a short-term marriage, or in ordering any reduction in support after a specified period or termination date with respect to a long-term marriage, to provide an explanation for its ruling either orally or in writing, as specified. The bill would also delete the provision requiring a court to give a specified admonition when making an order for spousal support and instead authorize the court to advise the recipient of support that he or she should make reasonable efforts to assist in providing for his or her support needs.

*The bill would incorporate additional changes to Section 4320 of the Family Code made by this bill and AB 808 to take effect if both bills are enacted and this bill is enacted last.*

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 4320 of the Family Code is  
2 amended to read:

3 4320. In ordering spousal support under this part, the  
4 court shall consider all of the following circumstances:

5 (a) The extent to which the earning capacity of each  
6 party is sufficient to maintain the standard of living  
7 established during the marriage, taking into account all  
8 of the following:

9 (1) The marketable skills of the supported party; the  
10 job market for those skills; the time and expenses  
11 required for the supported party to acquire the  
12 appropriate education or training to develop those skills;  
13 and the possible need for retraining or education to  
14 acquire other, more marketable skills or employment.

15 (2) The extent to which the supported party's present  
16 or future earning capacity is impaired by periods of  
17 unemployment that were incurred during the marriage  
18 to permit the supported party to devote time to domestic  
19 duties.

20 (b) The extent to which the supported party  
21 contributed to the attainment of an education, training,  
22 a career position, or a license by the supporting party.

(c) The ability to pay of the supporting party, taking into account the supporting party's earning capacity, earned and unearned income, assets, and standard of living.

(d) The needs of each party based on the standard of living established during the marriage.

(e) The obligations and assets, including the separate property, of each party.

(f) The duration of the marriage.

(g) The ability of the supported party to engage in gainful employment without unduly interfering with the interests of dependent children in the custody of the party.

(h) The age and health of the parties.

(i) The immediate and specific tax consequences to each party.

(j) The balance of the hardships to each party.

(k) The goal that the supported party shall be self-supporting within a reasonable period of time. Except in the case of a marriage of long duration as described in Section 4336, a "reasonable period of time" for purposes of this section generally shall be one-half the length of the marriage. However, nothing in this section is intended to limit the court's discretion to order support for a greater or lesser length of time, based on any of the other factors listed in this section, Section 4336, and the circumstances of the parties.

(l) Any other factors the court determines are just and equitable.

*SEC. 1.5. Section 4320 of the Family Code is amended to read:*

4320. In ordering spousal support under this part, the court shall consider all of the following circumstances:

(a) The extent to which the earning capacity of each party is sufficient to maintain the standard of living established during the marriage, taking into account all of the following:

(1) The marketable skills of the supported party; the job market for those skills; the time and expenses required for the supported party to acquire the

1 appropriate education or training to develop those skills;  
2 and the possible need for retraining or education to  
3 acquire other, more marketable skills or employment.

4 (2) The extent to which the supported party's present  
5 or future earning capacity is impaired by periods of  
6 unemployment that were incurred during the marriage  
7 to permit the supported party to devote time to domestic  
8 duties.

9 (b) The extent to which the supported party  
10 contributed to the attainment of an education, training,  
11 a career position, or a license by the supporting party.

12 (c) The ability to pay of the supporting party, taking  
13 into account the supporting party's earning capacity,  
14 earned and unearned income, assets, and standard of  
15 living.

16 (d) The needs of each party based on the standard of  
17 living established during the marriage.

18 (e) The obligations and assets, including the separate  
19 property, of each party.

20 (f) The duration of the marriage.

21 (g) The ability of the supported party to engage in  
22 gainful employment without unduly interfering with the  
23 interests of dependent children in the custody of the  
24 party.

25 (h) The age and health of the parties, *including, but*  
26 *not limited to, consideration of emotional distress*  
27 *resulting from domestic violence perpetrated against the*  
28 *supported party by the supporting party where the court*  
29 *finds documented evidence of a history of domestic*  
30 *violence, as defined in Section 6211, against the supported*  
31 *party by the supporting party.*

32 (i) The immediate and specific tax consequences to  
33 each party.

34 (j) The balance of the hardships to each party.

35 (k) The goal that the supported party shall be  
36 self-supporting within a reasonable period of time. ~~A~~  
37 *Except in the case of a marriage of long duration as*  
38 *described in Section 4336, a "reasonable period of time"*  
39 *for purposes of this section generally shall be one-half the*  
40 *length of the marriage. However, nothing in this section*

1 is intended to limit the court's discretion to order support  
2 for a greater or lesser length of time, based on any of the  
3 other factors listed in this section, *Section 4336*, and the  
4 circumstances of the parties.

5 (l) Any other factors the court determines are just and  
6 equitable.

7 SEC. 2. Section 4330 of the Family Code is amended  
8 to read:

9 4330. (a) In a judgment of dissolution of marriage or  
10 legal separation of the parties, the court may order a party  
11 to pay for the support of the other party an amount, for  
12 a period of time, that the court determines is just and  
13 reasonable, based on the standard of living established  
14 during the marriage, taking into consideration the  
15 circumstances as provided in Chapter 2 (commencing  
16 with Section 4320).

17 (b) When making an order for spousal support, the  
18 court may advise the recipient of support that he or she  
19 should make reasonable efforts to assist in providing for  
20 his or her support needs, taking into account the  
21 particular circumstances considered by the court  
22 pursuant to Section 4320, unless, in the case of a marriage  
23 of long duration as provided for in Section 4336, the court  
24 decides this warning is inadvisable.

25 SEC. 3. *Section 1.5 of this bill incorporates*  
26 *amendments to Section 4320 of the Family Code*  
27 *proposed by both this bill and AB 808. It shall only become*  
28 *operative if (1) both bills are enacted and become*  
29 *effective on or before January 1, 2000, (2) each bill*  
30 *amends Section 4320 of the Family Code, and (3) this bill*  
31 *is enacted after AB 808, in which case Section 1 of this bill*  
32 *shall not become operative.*